APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,328	10/16/2001	Jason Lango	67272-8046.US01	4985

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EXAMINER
BILGRAMI, ASGHAR H

ART UNIT	PAPER NUMBER
2443	

NOTIFICATION DATE	DELIVERY MODE
01/11/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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	Application No.	Applicant(s)
Office Action Summary	09/981,328	LANGO ET AL.
	Examiner	Art Unit	
	ASGHAR BILGRAMI	2443	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>09 October 2009</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-3,5,6,8-12 and 16-26</u> is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>11-3, 5, 6, 8-12, 16-26</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on <u>16 October 2001</u> is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All   b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>9/25/2009</u>.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail. Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2.   Claims 1-3, 5, 6, 8-12, 16-26 are rejected under 35 U.S.C. 102(e) as being

anticipated by Wen et al (U.S. 7,333,431 B2).

3.   As per claims 1, 6, 9, 16, 20 & 22 Wen disclosed a method for reducing peak

output traffic bursts in a processing system, which includes a processor the method

comprising: receiving, at the streaming media cache (figure 3), a first packet of data

representing a particular portion of a media stream and including a specified packet

delivery time , scheduled to be delivered to each of a number of downstream clients at

the specified packet delivery time (col.3, lines 7-28); modifying the specified packet

delivery time of the first packet of data, for delivery of the first packet of data to a first

downstream client system, by the processor, by adding the first delay value to the

specified packet delivery time of the first packet data (col.5, lines 1-14) ; pseudo-

randomly selecting a second delay value (col.5, lines 15-45) { Wen discloses that the

delay value is pseudo-random because "R" relaxation time may be set empirically over

a robust range depending upon the network conditions. It is well known that network

traffic conditions differ from time to time I.E that are random. Since delay value on a

packet is tied to network conditions that vary due to multiple reasons therefore the time

delay applied on a packet is considered to be pseudo-randomly selected}; and

modifying the specified packet delivery time of the first packet of data for delivery of the

first packet of data to a second downstream client system, by adding the second delay

value to the specified packet delivery time of second first packet of data (col.5, lines 45-

67).

4.   As per claims 2, 19 , 21 & 23 Wen disclosed the method of claim 1 wherein

pseudo-randomly selecting the first delay value comprises pseudo-randomly selecting

the first delay value from within a specified time range (col.5, lines 15-45) { Wen

discloses that the delay value is pseudo-random because "R" relaxation time may be

set empirically over a robust range depending upon the network conditions. It is well

known that network traffic conditions differ from time to time I.E that are random. Since

delay value on a packet is tied to network conditions that vary due to multiple reasons

therefore the time delay applied on a packet is considered to be pseudo-randomly

selected}.

5.   As per claims 5, 8 & 12 Wen disclosed the method of claim 6 further comprising:

receiving a data file from the upstream server, the data file including a payload portion

of the first streaming media data packet and a payload portion of the second streaming

media data packet (col.1, lines 24-37); and storing the data file in a storage within the

streaming media cache (figure 1).

6.   As per claims 10 Wen disclosed the computer system of claim 9 wherein the

second thread is configured to modify the first delayed first data packet in response to

the first client delay by adding the first client delay to the first delivery time (col.5, lines

1-14).

7.   As per claims 17 & 18 Wen disclosed the method of claim 16 wherein the first

packet of data is framed and its data comprises streaming media (col.5, lines 1-14).

8.   As per claim 25 & 26 Wen disclosed the method of claim 22, wherein said data

packet is part of a live data stream being broadcasted to the plurality of client system

(col.5, lines 1-14), wherein a pseudo-randomly selected delay time for first client system

of the plurality of client systems is different from the pseudo-randomly selected delay

time for a second client system of the plurality of systems (col.5, lines 15-45).

Claim Rejections - 35 USC § 103

9.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

    (a) A patent may not be obtained though the invention is not identically disclosed or described as set
    forth in section 102 of this title, if the differences between the subject matter sought to be patented and
    the prior art are such that the subject matter as a whole would have been obvious at the time the

> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

10.   Claims 3, 11 & 24 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Wen et al (U.S. 7,333,431 B2) and Chen et al (U.S. 6,680,976 B1).

11.   As per claims 3, 11 & 24 Wen disclosed the method of claim 10 wherein the first

client delay is pseudo-randomly selected . However Wen did not explicitly disclose the

range to be from 0 to approximately 500 milliseconds. In the same filed of endeavor

Chen disclosed the range to from 0 to approximately 500 milliseconds (col.9, lines 47-

55).

It would have been obvious to one in the ordinary skill in the art at the time the invention

was made to have incorporated the range selection to be from approximately 0 to 500

millisecond as disclosed by Chen in the method disclosed by Wen in order to make the

processing system more optimized resulting in a processing system that is more robust.

Response to Arguments

12.   Applicant's arguments with respect to claims 1-3, 5, 6, 8-12, 16-26 have been

considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ASGHAR BILGRAMI whose telephone number is (571)272-3907. The examiner can normally be reached on 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia L.M. Dollinger can be reached on 571-272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. B./
Examiner, Art Unit 2443

/George C Neurauter, Jr./
Primary Examiner, Art Unit 2443